

Message Text

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ACTION EUR-12

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BEWT FOR ABRAHAMSON

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TAGS: BDIS, BEXP, AU, PL

SUBJ: PHILLIPS PETROLEUM CORP. CONSIDERING FORMAL COMPLAINT TO
USG RE POLIMEX-CEKOP

1. SUMMARY: PHILLIPS PETROLEUM CORP. IS CONSIDERING
SUBMISSION OF FORMAL COMPLAINT TO USG OVER WHAT PHILLIPS
REGARDS AS GROSSLY UNETHICAL BUSINESS CONDUCT BY
POLISH FTO POLIMEX-CEKOP. COMPLAINT WOULD REQUEST USG
INTERVENTION WITH POLISH GOVERNMENT. EWTC RECOMMENDS
EMBASSY WARSAW CONSIDER NUDGING MINFORNTRADE OR
POLIMEX-CEKOP TO MAKE OVERDUE PAYMENT TO PHILLIPS.

2. CALVIN C. JONES, EAST WEST LICENSING MANAGER,
PHILLIPS PETROLEUM INTERNATIONAL, WHOSE OFFICE IS
LOCATED IN VIENNA, CALLED AT EWTC, AUGUST 21, TO DIS-
CUSS DIFFICULTIES PHILLIPS PETROLEUM HAS HAD IN DEALING
WITH POLISH FTO POLIMEX-CEKOP. ORIGINS GO BACK TO
DECEMBER 1965 WHEN HOUDRY CORP AND PHILLIPS PETROLEUM
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SIGNED CONTRACT TO PROVIDE TECHNOLOGY AND DESIGN

FOR BUTADIENE PLANT TO BE INSTALLED IN PLOCK PETRO-CHEMICAL COMPLEX. BRITISH FIRM BABCOCK AND WILCOX THROUGH SUBSIDIARIES SUPPLIED MOST OF EQUIPMENT. PLOCK BUTADIENE PLANT EXPERIENCED SERIOUS START-UP PROBLEMS. CONTRIBUTING FACTOR WAS DESIGN ERROR BY PHILLIPS WHICH WAS IDENTIFIED AND ACKNOWLEDGED BY PHILLIPS, WHICH OFFERED TO RATIFY ERROR BY PURCHASING TWO HEAT EXCHANGERS. POLIMEX-CEKOP USED OCCASION TO ATTEMPT TO EXTRACT EXORBITANT CONCESSIONS FROM PHILLIPS PETROLEUM. POLIMEX-CEKOP ALSO HELD UP PAYMENTS UNDER CONTRACT AND REFUSED TO PROVIDE PRODUCTION DATA WHICH WOULD HAVE FIXED POLIMEX-CEKOP OBLIGATION TO PAY AS CALLED FOR IN CONTRACT. AGREEMENT EVENTUALLY WAS REACHED UNDER WHICH PHILLIPS PETROLEUM WOULD PROVIDE HEAT EXCHANGERS PLUS ADDITIONAL EQUIPMENT FOR BUTADIENE PLANT AND POLIMEX-CEKOP WOULD GIVE PRODUCTION DATA REQUIRED UNDER ORIGINAL CONTRACT AND MAKE PAYMENTS IN THREE INSTALLMENTS TOTALLING APPROXIMATELY \$325,000 ACCORDING TO NEW SCHEDULE. POLIMEX-CEKOP THEN PAID FIRST INSTALLMENT AND GAVE PRODUCTION DATA WHICH SHOWS PLANT REACHED CUMULATIVE LIMIT OF 60,000 TONS TWO YEARS AGO AND THAT IT SHOULD HAVE PAID FINAL PAYMENT OF LICENSING FEE AT THAT TIME. PHILLIPS MET REQUIREMENTS FOR SECOND INSTALLMENT IN MARCH BY INFORMING POLIMEX-CEKOP OF NAME OF PLANT WHERE HEAT EXHCANGERS AND OTHER EQUIPMENT ARE BEING CONSTRUCTED AND ANTICIPATED DELIVERY SCHEDULE. POLIMEX-CEKOP FAILED TO MAKE PAYMENT OF SECOND INSTALLMENT WHEN IT FELL DUE IN APRIL. JONES WILL RECOMMEND TO PHILLIPS PETROLEUM MANAGEMENT THAT IT NOT DELIVER HEAT EXCHANGERS AND OTHER EQUIPMENT UNTIL SECOND PAYMENT IS MADE. EQUIPMENT WILL BE READY FOR DELIVERY IN ABOUT ONE MONTH.

3. JONES SAID PURPOSE OF HIS VISIT WAS TO DISCUSS LARGER IMPLICATIONS OF DISPUTE WITH POLIMEX-CEKOP RATHER THAN DETAILS. PHILLIPS PETROLEUM IS NOT INTERESTED IN ARBITRATION BUT IS CONSIDERING FORMAL COMPLAINT TO USG ALONG WITH REQUEST THAT USG PROTEST TO POLISH GOVERNMENT POLIMEX-CEKOP LACK OF GOOD FAITH IN DEALING WITH PHILLIPS PETROLEUM. JONES POINTED LIMITED OFFICIAL USE

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OUT THAT USG OFFICIALS ENCOURAGE AMERICAN FIRMS TO DEAL WITH SOCIALIST COUNTRIES AND SAY THAT EAST-WEST TRADE CONTRACTS ARE OBSERVED. PHILLIPS PETROLEUM EXPERIENCE WITH POLIMEX-CEKOP HOWEVER IS PROOF THAT THIS IS NOT ALWAYS CASE. MOREOVER JONES BELIEVES FURTHER TRADE BETWEEN AMERICAN FIRMS AND POLISH FTOS SHOULD NOT BE UNDERTAKEN WITHOUT SOME WARNING THAT POLES DO NOT HESITATE TO ENGAGE IN GROSSLY UNETHICAL BUSINESS

CONDUCT BY TAKING ADVANTAGE OF EVERY OPPORTUNITY TO DELAY PAYMENTS OR EXTRACT CONCESSIONS. JONES NOTED THAT PHILLIPS PETROLEUM EXPERIENCE AT PLANT LEVEL HAS BEEN EXCELLENT AND SAID IF MATTER HAD BEEN LEFT TO ENGINEERS RATHER THAN POLIMEX-CEKOP, IT WOULD NOT HAVE RESULTED IN CURRENT DIFFICULTIES. FINALLY PHILLIPS PETROLEUM HAS BEEN NEGOTIATING WITH POLES ON SEVERAL OTHER LICENSING DEALS BUT JONES MAY RECOMMEND THAT PHILLIPS PETROLEUM CORPORATE MANAGEMENT NOT GO AHEAD WITH CONTRACTS UNLESS IT IS REASONABLY CERTAIN THAT ITS EXPERIENCE WITH POLIMEX-CEKOP WILL NOT BE REPEATED.

4. COMMENT: WE TOLD JONES WE WOULD REPORT DISCUSSION TO EMBASSY WARSAW AND BUREAU OF EAST-WEST TRADE. WE POINTED OUT THAT, IF APPROACHED, POLIMEX-CEKOP WOULD NO DOUBT EMPHASIZE PHILLIPS DESIGN ERROR AND CLAIM IT COST MORE THAN PHILLIPS PETROLEUM EFFORTS TO REPAIR DAMAGE. JONES UNDERSTOOD THIS AND STATED THAT PHILLIPS PETROLEUM CAN DOCUMENT ITS SIDE OF CASE IF NECESSARY. WE DO NOT KNOW WHETHER JONES STATEMENTS REGARDING POSSIBLE SUBMISSION OF FORMAL COMPLAINT TO USG HAS APPROVAL OF HIS CORPORATE MANAGEMENT BUT NEVERTHELESS RECOMMEND THAT EMBASSY WARSAW CONSIDER WHETHER IT MIGHT NOT BE BETTER TO NUDGE POLIMEX-CEKOP OR MINFORNTRADE TO FORWARD OVERDUE SECOND PAYMENT REATHER THAN WAIT TO SEE IF PHILLIPS PETROLEUM DECIDES TO SUBMIT FORMAL COMPLAINT.MEEHAN

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